

AS

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 98-060-C - ORDER NO. 98-427

JUNE 9, 1998

IN RE: Application of EZ Telephone, Inc. for a ) ORDER  
Certificate of Public Convenience and ) APPROVING  
Necessity to Provide Local Exchange ) APPLICATION  
Telecommunications Services within the State )  
of South Carolina. )

✓ JMR

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the Application of EZ Telephone, Inc. DBA ET Home Phone ("EZ" or "the Company"). The Application requests that the Commission issue a Certificate of Public Convenience and Necessity authorizing EZ to provide local exchange telecommunications services in the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1996), and the Regulations of the Commission.

By letter, the Commission's Executive Director instructed EZ to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings and to provide notice of the hearing date on this matter. EZ complied with this instruction and provided the Commission with proof of

publication of the Notice of Filing. Petitions to Intervene were received from the South Carolina Telephone Coalition (“SCTC”) and E-Z Tel, Inc.

A hearing was convened on May 27, 1998, at 12:00 noon in the Commission’s Meeting Room. The Honorable Guy Butler, Chairman, presided at the hearing. EZ was represented by John J. Pringle, Esquire. The Commission Staff (“Staff”) was represented by F. David Butler, General Counsel. Neither SCTC nor E-Z Tel appeared at the hearing.

Prior to the hearing, EZ and the SCTC executed a Stipulation. The Stipulation was filed with the Commission prior to the hearing in this matter. As a result of the Stipulation, SCTC withdrew its opposition to EZ’s Application. The Stipulation provides the following:

- (1) The SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to EZ if the Commission makes the necessary findings to grant the Certificate and if all stipulated conditions are met;
- (2) EZ agrees that any Certificate granted by the Commission will authorize EZ to provide service only to customers located in non-rural local exchange company (“LEC”) service areas except as otherwise provided;
- (3) EZ agrees that it is not requesting the Commission to find whether competition is in the public interest for rural areas;
- (4) EZ agrees that it will not provide local service, by its own facilities or otherwise, to any customer in a rural incumbent LEC’s service area, unless and until EZ provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. EZ also acknowledges that the Commission may suspend the intended date for

service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause;

- (5) EZ agrees that if, after EZ gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then EZ will not provide service to any customer located within the service area in question without prior and further Commission approval;
- (6) EZ acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures and guidelines do not conflict with Federal or State law;
- (7) EZ and the SCTC agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and that the stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled; and
- (8) EZ agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

This stipulation is consistent with our decision in Order No. 96-494 (Docket No. 96-073-C). It was signed voluntarily by both the SCTC and EZ, was filed with the Commission prior to the hearing in this matter, and was made a part of the record at the hearing. We therefore approve the stipulation. Further, the Company's Motion to add the DBA ET Home Phone is hereby granted. E-Z Tel did not participate in the hearing.

In support of its Application, EZ presented David Schoepfle, Vice-President of EZ, to testify. The purpose of Mr. Schoepfle's testimony was (1) to present evidence on the financial, managerial, and technical abilities of EZ to provide local exchange service

to locations within South Carolina and (2) to discuss the services which EZ proposes to offer.

### **DISCUSSION**

S.C. Code Ann. §58-9-280 (Supp. 1996) provides that the Commission may grant a certificate to operate as a telephone utility ... to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, EZ's Application, and the evidence presented at the hearing, the Commission finds and concludes that the Certificate sought by EZ should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. §58-9-280 (Supp. 1996) and the evidence presented at the hearing which relates to that criteria:

(1) The Commission finds that EZ possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1996). Mr. Schoepfle testified that EZ has sufficient technical, financial, and managerial resources and ability to provide the telecommunications services for which EZ seeks authority. According to Mr. Schoepfle, EZ intends to offer local exchange services only on a state-wide basis between points where facilities are available and that EZ proposes to primarily target residential customers who have credit problems or outstanding billings with the incumbent local exchange carriers.

Mr. Schoepfle stated that EZ's management team has considerable experience and stated that EZ possesses the necessary management and technical resources to provide the services for which it seeks authority.

Regarding EZ's financial resources, the record reveals that EZ is incorporated under the laws of the State of South Carolina. Mr. Schoepfle testified that EZ is adequately funded and has sufficient financial resources to provide local services.

No other party offered any evidence in opposition to Mr. Schoepfle's testimony. Based on the undisputed evidence of the record, the Commission finds that EZ possesses the technical, financial, and managerial resources sufficient to provide the services requested.

(2) The Commission finds that EZ will provide services that will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1996). Mr. Schoepfle specifically stated that EZ will comply with all applicable rules, policies, and statutes applicable to the offering of those services and that EZ fully intends to meet the Commission's service standards. No party offered any evidence to dispute Mr. Schoepfle's testimony. Based on the undisputed testimony from Mr. Schoepfle, the Commission believes, and so finds, that EZ will provide telecommunications services which will meet the service standards of the Commission.

(3) The Commission finds that EZ's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1996). Mr. Schoepfle stated that EZ's service offerings would not

adversely impact the availability of affordable local exchange service. No party offered any evidence that the provision of local exchange service by EZ would adversely affect local rates. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by EZ will not adversely impact affordable local exchange service.

(4) The Commission finds that EZ will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1996). Mr. Schoepfle testified that EZ will comply with the Commission's universal service requirements. No party disputed Mr. Schoepfle's testimony. Based on the undisputed evidence of record, the Commission finds that EZ will participate in support of universally available telephone service at affordable rates.

(5) The Commission finds that the provision of local exchange service by EZ "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996). Mr. Schoepfle offered that approval of EZ to provide local telecommunications services will benefit consumers by making local service more affordable and available. Mr. Schoepfle's testimony was undisputed as no party offered any evidence that approval of EZ's Application would adversely impact the public interest. Therefore, the Commission finds that approval of EZ's Application for a Certificate to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996).

Therefore, based on the findings above, the Commission finds and concludes that the Certificate sought by EZ should be granted.

IT IS THEREFORE ORDERED THAT:

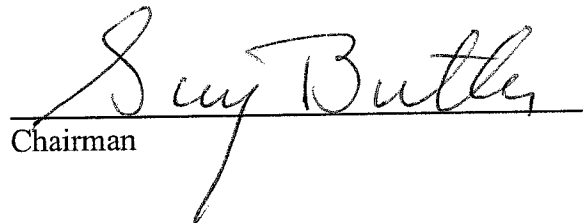
1. The Application of EZ for a Certificate of Public Convenience and Necessity authorizing EZ to provide local exchange telecommunications services in the State of South Carolina is approved.
2. The Stipulation filed by EZ and the SCTC is approved by this Commission, is binding upon EZ and the SCTC, and shall be implemented as set forth in the Stipulation. We therefore make no findings or conclusions regarding competition in the rural areas of South Carolina. EZ shall conduct its operations in compliance with the Stipulation until further Order of the Commission.
3. EZ shall file, prior to offering local exchange services in South Carolina, a final tariff of its service offerings.
4. EZ shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs. In addition, EZ shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. EZ shall file with the Commission the names, addresses, and telephone numbers of these representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, EZ shall promptly notify the Commission in writing if the representatives are replaced. EZ is directed to comply with all Commission regulations unless expressly waived by the Commission.

5. EZ shall conduct its business in accordance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

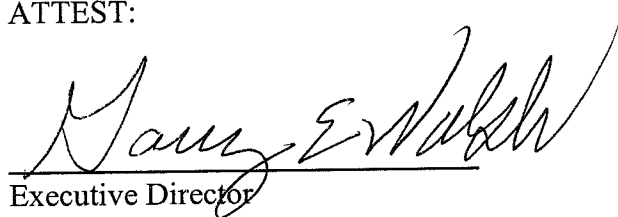
6. The Motion is granted to allow the Company to be known as EZ Telephone, Inc. DBA ET Home Phone.

7. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Deputy Executive Director

(SEAL)



DOCKET NO. 98-060-C - ORDER NO. 98-427  
JUNE 9, 1998  
ATTACHMENT A

**INFORMATION OF THE AUTHORIZED UTILITY  
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL  
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION  
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission  
the name, title, address, and telephone number of the persons who should be contacted in  
connection with Customer Relations/Complaints.

\_\_\_\_\_  
Company Name/DBA Name

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Authorized Utility Representative (Please Print or Type)

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Fax Number

\_\_\_\_\_  
E-Mail Address

\_\_\_\_\_  
This form was completed by      Signature

If you have any questions, contact the Consumer Services Department at 803-737-5230